IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1842 OF 2005

Datar Switchgear Ltd. ...Petitioners

Versus

The State of Maharashtra & Ors ...Respondents

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Mr.Shirish Gupte, Sr. Advocate i/b M/s. Shaunak Satpute & Co. Advocate for Petitioners

Mr. R.S. Khadapkar, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 11TH OCTOBER, 2005

P. C.:-

1. Heard the learned advocate for the petitioners and the learned A.P.P. for the State.

2. The petitioners have prayed for quashing of process issued against them in Criminal Case No. 2390/SS of 2004 which is pending in the Court of learned Additional Chief Metropolitan Magistrate, 29th Court, Dadar, Mumbai. In the said case, process has been issued against the petitioners under Section 138 of Negotiable Instruments Act.

3. For the reasons recorded in the decision of this Court in the case of **V.K. Jain & Ors. Vs. Pratap**

Vs. Padode and Anr, reported in 2005(3) Mh.L.J. 778, in my opinion, the petitioners have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioners prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioners to prefer revision before the concerned Sessions Court. The learned advocate for the petitioners states that the necessary revision would be preferred within a period of four weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of four weeks from today.

5. It is also prayed that by order dated 14.1.2005, the learned Magistrate has issued non bailable warrant against the petitioners and the said N.B.W. be quashed. I am not inclined to quash the N.B.W. as in my view, it would be appropriate that the petitioners prefer an application before the Magistrate for setting aside the said N.B.W. In order to enable the petitioners to take necessary steps for setting aside the N.B.W. before the Magistrate, the said N.B.W. are stayed for a period of eight weeks from today.

6. On the necessary revision being preferred by the petitioners before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Writ Petition is disposed of.

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